

# Adult Family Home

Contract #04-077\_

## PURCHASE OF SERVICE CONTRACT

### Parties and Contract Period

This contract is between **Marinette County Health & Human Services Department**, whose business address is **2500 Hall Avenue, Suite B, Marinette WI 54143**, hereinafter referred to as Purchaser and <<<Provider name >>> whose business address is <<<Provider address>>>, hereinafter referred to as Provider. This contract is to be effective for the period **January 1, 2004 through December 31, 2004**.

The Provider employee responsible for day-to-day administration of this contract will be <<<Provider name >>>, (xxx) xxx-xxxx whose business address is <<<Provider address>>>. In the event that the administrator is unable to administer this contract, Provider will contact Purchaser and designate a new administrator.

The Purchaser employee responsible for day-to-day administration of this contract will be <<<contact person>>>, <<<phone>>> whose business address is **2500 Hall Avenue, Suite B, Marinette, WI 54143**. In the event that the administrator is unable to administer this contract, Purchaser will contact Provider and designate a new administrator.

### Article 1 Audit

#### Section 1.1 Type of audit

The Provider shall submit an annual agency-wide audit to the Purchaser if the total amount of annual funding provided by the Purchaser through this and other contracts is \$25,000 or more.

#### Section 1.2 Audit Standards

The audit shall be in accordance with the requirements of OMB Circular 1-133 "Audits of States, Local Governments, and Non-Profit Organizations" (on line at [www.whitehouse.gov/omb/circulars](http://www.whitehouse.gov/omb/circulars)) if the provider meets the criteria of the Circular for needing an audit in accordance with the Circular. The audit shall also be in accordance with the following department standard:

- a. The *State Single Audit Guidelines* (on line at [www.ssag.state.wi.us](http://www.ssag.state.wi.us)) if the Provider is a local government that meets the criteria of OMB Circular A-133 for needing an audit in accordance with that Circular of
- b. The *Provider Agency Audit Guide* (on line at [www.dhfs.state.wi.us/grants](http://www.dhfs.state.wi.us/grants)) for all other Providers.

#### Section 1.3 Audit Schedules

In addition to the schedules required under the *State Single Audit Guidelines* or the *Provider Agency Audit Guide*, the reporting package sent to the Purchaser shall include a supplemental schedule showing revenue and expenses for this contract.

For profit providers shall include a schedule in their audit reports showing the total allowable costs and the calculation of the allowable profit by contract or by service category.

Non-profit providers shall include a Reserve Supplemental Schedule (Section 7.1.6 of the *Provider Agency Audit Guide*) in their audit reports, and this schedule shall also be by contract or service category.

#### **Section 1.4 Submitting the Reporting Package**

The Provider shall send the required reporting package to the Purchaser at the address listed in this contract. The reporting Package is due to the Purchaser within 180 days of the end of the Provider's fiscal year.

#### **Section 1.5 Access to auditor's work papers**

When contracting with an audit firm, the Provider shall authorize its auditor to provide access to work papers, reports, and other materials generated during the audit to the appropriate representatives of the Purchaser. Such access shall include the right to obtain copies of the work papers and computer disks, or other electronic media, which document the audit work.

#### **Section 1.6 Failure to comply with the requirements of this section**

If the Provider fails to have an appropriate audit performed or fails to provide a complete audit-reporting package to the Purchaser within the specified timeframe, the Purchaser may:

- a. Conduct an audit or arrange for an independent audit of the Provider and charge the cost of completing the audit to the provider;
- b. Charge the Provider for all loss of federal or state aid or for penalties assessed to the Purchaser because the Provider did not submit a complete audit report within the required time frame;
- c. Disallow the cost of the audit that did not meet the applicable standards/ and/or
- d. Withhold payment, cancel the contract, or take other actions deemed by the Purchaser to be necessary to protect the Purchaser's interests.

### **Article 2 Caregiver Background Checks**

The Purchaser and the Provider agree that the protection of the clients served under this contract is paramount to the intent of this contract. In order to protect the clients served, the Provider shall comply with the provisions of HFS 12, Wis. Admin. Code (online at <http://www.legis.state.wi.us/rsb/code/index.html>)

#### **Section 2.1 Provider Screening/Background checks**

Provider Screening Requirements: All persons who provide direct contact with the clients of the Purchaser shall be subject to criminal and caregiver background checks at the Provider's own expense. The Provider shall retain in its Personnel Files all pertinent information, to include a Background information Disclosure Form and/or search results from the Department of Justice, the Department of Health and Family Services, and the Department of Regulation and Licensing, as well as out of state records, tribal court proceedings and military records, if applicable.

Both types of background checks must be repeated every four years., or at any time within that period when the Provider has reason to believe a new check should be obtained.

Persons who are listed on the caregiver register, or who are found to have committed a crime substantially related to the provision of these services such as misappropriation of participant funds, shall not be considered qualified for the provision of this service. Persons providing these services shall comply with all relevant provisions of Section 1.05 of Chapter IV of the Medicaid Waivers Manual.

### **Section 2.2 Records**

The Provider shall maintain the results of background checks on its own premises for at least the duration of the contract. The Purchaser may audit the Provider's personnel files to assure compliance with the State of Wisconsin Caregiver Background Check Manual (online at <http://www.dhfs.state.wi.us/caregiver/publications/CgvrProgMan.htm>).

### **Section 2.3 Assignment of staff**

The Provider shall not assign any individual to conduct work under this contract who does not meet the requirement of this law.

### **Section 2.4 Notification to Purchaser**

Providers must communicate with county staff and other providers within confidentiality laws, any incidents or situations regarded as Critical Incidents as defined in the Medicaid Home and Community-Based Services Waivers Manual, Chapter 9.

The Provider shall notify the Purchaser in writing via certified mail within one business day if an employee has been charged with or convicted of any crime specified in HFS 12.07(2) (online at <http://www.legis.state.wi.us/rsb/code/index.html>).

## **Article 3 Civil Rights Compliance Plan**

### **Article 3 Civil Rights Compliance Plan**

The Civil Rights Compliance (CRC) Plan contains three components that cover Affirmative Action, Civil Rights/Equal Employment Opportunity, and Language Access. Providers that have more than twenty-five (25) employees and receive more than twenty five thousand dollars (\$25,000) must develop and submit a Civil Rights Compliance Plan with all the three components mentioned above.

Providers that have less than twenty-five (25) employees or receive less than a total of twenty five thousand (\$25,000) dollars must develop and submit a Letter of Assurance.

### **Section 3.1 Affirmative Action Component**

- A. Affirmative Action (AA) is the first component of the CRC Plan. A Provider must develop and submit an Affirmative Action Plan that covers a two or three-year period.
- B. A Provider may request an exemption from submitting an AA Plan if it:
  - 1. Has an annual work force of less than twenty-five (25) employees,
  - 2. Is a governmental entity (e.g., county, municipality or state university), or
  - 3. Has a balanced work force.
- C. Nevertheless, exempt Providers that do not have a balanced work force in specific job groups are required to develop and submit a recruitment strategy to address under-representation of the job group.

- D. "Affirmative Action Plan" is a written document that details an affirmative action program. Key parts of an affirmative action plan are:
1. a policy statement pledging nondiscrimination and affirmative action employment,
  2. internal and external dissemination of the policy,
  3. assignment of a key employee as the Equal Opportunity Coordinator,
  4. a workforce analysis that identifies job classifications where representation of women, minorities and the disabled are deficient,
  5. Goals and timetables that are specific and measurable and that are set to correct deficiencies and to reach a balanced workforce,
  6. a revision of employment practices to ensure that they do not have discriminatory effects, and
  7. the establishment of internal monitoring and reporting systems to measure progress regularly.
- E. A non-exempt Provider shall conduct, keep on file, and update annually a separate and additional accessibility self-evaluation of all programs and facilities, including employment practices for compliance with the Americans with Disabilities Title I regulations, unless an updated self-evaluation under Section 503 of the Rehabilitation Act of 1973 exists which meets the ADA requirements.

### **Section 3.2 Civil Rights/Equal Employment Opportunity Components**

- A. Civil Rights is the second component of the CRC Plan that must be developed and submitted. The civil rights requirements address non-discrimination in service delivery to clients, consumers, or patients.
1. All Providers must have the following policies and procedures to ensure that no otherwise qualified person shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any manner on the basis of race, color, national origin, sexual orientation, religion, sex, disability or age.
  2. This policy covers eligibility for and access to service delivery and equal treatment in all programs and activities. All employees of the Providers are expected to support goals and programmatic activities relating to nondiscrimination in service delivery.
- B. Equal Employment Opportunity is another part to the second component in the CRC Plan. It addresses the requirements that the Provider must put in place to ensure non-discrimination in all employment conditions. The federal and state laws state that:
1. No otherwise qualified person shall be excluded from employment, be denied the benefits of employment or otherwise be subject to discrimination in employment in any manner or term of employment on the basis of age, race/ethnicity, religion, gender, sexual orientation, color, national origin or ancestry, disability (as defined in Section 504 of the Rehab Act and the Americans with Disabilities Act), arrest or conviction record, marital status, political affiliation, military participation, the use of legal products during non-work hours, non-job related genetic and honesty testing. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.

2. The Provider shall post the Equal Opportunity Policy, the name of the Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, and applicants for employment and employees. The complaint process will be according to Purchaser's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. The Purchaser will continue to provide appropriate translated program brochures and forms for distribution.
3. The Provider agrees to comply with the Purchaser's guidelines in the Civil Rights Compliance Plan Standards and a Resource Manual for Equal Opportunity in Service Delivery and Employment for the Wisconsin Department of Health and Family Services, its Service Providers and their Subcontractors.
4. Requirements herein stated apply to any subcontracts or grants. The Purchaser has primary responsibility to take constructive steps, as per the CRC Standards, to ensure the compliance of its subcontractors or grantees.
5. If a Provider of a county is a direct provider of the Department, this Provider will be required to develop and submit a CRC Plan to the Department. The county need not require this Provider to submit a second copy to the county.
6. The purchaser will monitor the Civil Rights Compliance of the Provider. The purchaser will conduct reviews to ensure that the Provider is ensuring compliance by its subcontractors or grantees according to guidelines in the CRC Standards. The Provider agrees to comply with Civil Rights monitoring reviews, including the examination of records and relevant files maintained by the Provider, as well as interviews with staff, clients, and applicants for services, subcontractors, grantees, and referral agencies. The reviews will be conducted according to Department of Health and Family Services procedures. The purchaser will also conduct reviews to address immediate concerns of complainants.
7. The Provider agrees to cooperate with the purchaser in developing; implementing and monitoring corrective action plans that result from complaint investigations or monitoring efforts.

### **Section 3.3 Language Access Plan**

- A. Language Access is the third component in the CRC Plan. It addresses the way programs and services are provided for persons with disabilities and Limited English Proficient (LEP) speakers.
- B. For persons with disabilities, the Provider agrees that it will:
  1. Provide competent sign language interpreters for deaf or hard of hearing participants free of charge at any stage of application or receipt of services;
  2. Provide aids, assistive devices and other reasonable accommodations to the client during the application process, in the receipt of services, and in the processing of complaint or appeals;
  3. Train staff in human relations techniques, sensitivity to persons with disabilities and sensitivity to cultural characteristics;

4. make programs and facilities accessible, as appropriate, through outstations, authorized representatives, adjusted work hours, ramps, doorways, elevators, or ground floor rooms, and Braille, large print or taped information for the visually or cognitively impaired;
5. Post and/or make available informational materials in formats appropriate to the needs of the client population.

C. For limited English Proficient (LEP)

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the Provider;
- The frequency with which LEP individuals come in contact;
- The nature and importance of the program, activity, or service provided by the program to people's lives, and
- The resources available to the Provider.

D. Upon the consideration of the four factors, the LEP policies require that the Provider have the following program components:

1. Analyze its service area to assess the primary language needs of the participants that it serves or encountered;
2. Establish a plan that will make oral interpretation available and free of charge upon request.
3. Disseminate written notice in the primary language of the LEP group that interpretation is available and free of charge to groups that constitute less than 50 individuals eligible to be served or encountered;
4. Provide written translations of vital documents to LEP participants that constitutes at least 5% or 1,000 LEP individuals, whichever is less, for the populations served or encountered.
5. Train staff about the Provider's LEP policies and procedures;
6. Collect data on primary language use of LEP participants to evaluate the program's effectiveness; and
7. Identify the LEP Coordinator and establish a complaint process that is accessible to LEP participants.

E. The provider will, to the extent possible, hire bilingual staff, work with community associations, contract with competent interpreters or other ways to ensure accurate interpretation while providing critical health care to an LEP consumer of patient.

#### **Article 4 Client Funds**

All client funds shall be handled by the Purchaser. The Provider shall not handle client funds.

## **Article 5 Client Rights and Grievances**

The Provider shall have a formal written grievance procedure that is approved by the licensing or certification authority, if applicable, and by the Purchaser. The Provider shall, prior to or at the time of admission to the Program, provide oral and written notification to each client of his or her rights and the grievance procedure. The Provider shall post the client rights and the grievance procedure in an area readily available to clients and staff of the program.

The provider shall give the Purchaser a written report for each grievance that is filed in writing against the provider by any clients or their guardians. The Provider shall deliver these reports to the Purchaser in person or via registered mail within 5 business days of the Providers receipt of the grievance. The Provider shall also inform the Purchaser in writing of the resolution of each grievance.

At least once a year, or more frequently when requested by the Purchaser, the Provider shall give the Purchaser a written summary report of all grievances that have been filed with the Program by clients or their guardians since the period covered by the previous summary report and of the resolution of each grievance. The Provider shall deliver the annual summary report to the Purchaser in person or via registered mail within 30 days of the end of the contract period. Additional summary reports requested by the Purchaser shall be due within 10 days of the Purchaser's request for the reports. All reports shall be delivered to the Purchaser in person or via registered mail.

## **Article 6 Conditions of the Parties' Obligations**

### **Section 6.1 Contingency**

This contract is contingent upon authorization of Wisconsin and United States laws and any material amendment or repeal of the same affecting relevant funding or authority of the Department of Health and Family Services shall serve to terminate this Agreement, except as further agreed to by the parties hereto.

### **Section 6.2 Powers and Duties**

Nothing contained in this contract shall be construed to supersede the lawful powers or duties of either party.

### **Section 6.3 Items Comprising the Contract**

Is understood and agreed that the entire contract between the parties is contained herein, except for those matters incorporated herein by reference, and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.

## **Article 7 Confidentiality**

### **Section 7.1 Client confidentiality**

The provider shall not use or disclose any information concerning eligible clients who receive services from Provider for any purpose not connected with the administration of Provider's or Purchaser's responsibilities under this contract, except with the informed, written consent of the eligible client or the client's legal guardian.

### **Section 7.2 Contract not confidential**

Except for documents identifying specific clients, the contract and all related documents are not confidential.

## **Article 8 Conflict of Interest**

The provider shall ensure the establishment of safeguards to prevent employees, consultants, or members of the board from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties.

## **Article 9 Debarment and Suspension**

The provider certifies through signing this contract that neither the Provider nor any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in federal assistance programs by any federal department or agency. In addition, the Provider shall notify the Purchaser within five business days in writing and sent by registered mail if the Provider or its principals receive a designation from the federal government that they are debarred, suspended, proposed for debarment, or declared ineligible by a federal agency. The Purchaser may consider suspension or debarment to be may by cause for implementing high risk contract provisions under Article 23 "Special conditions for high risk contract" or for revising or terminating the contract under Article 21 "Revision or termination of the contract."

## **Article 10 Eligibility**

The Provider shall provide services only to individuals who are eligible for services. The Provider and Purchaser agree that the eligibility of individuals to receive the services to be purchased under this Agreement from the Provider will be determined by the Purchaser.

An individual is entitled to the right of a fair hearing concerning eligibility and the Purchaser shall inform individuals of this right. The Provider shall provide clients with information concerning their eligibility rights and how to appeal those rights.

## **Article 11 Health Insurance Portability and Accountability Act of 1996 "HIPAA" Applicability**

### **Section 9.1 General Applicability**

The Provider agrees to comply with the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the extent those regulations apply to the services the Provider provides or purchases with funds provided under this contract.

### **Section 9.2 Business Associate Agreement**

In addition, certain functions included in this agreement may be covered within HIPAA rules. As such the Purchaser must comply with all provisions of the law and has determined that Provider is a "Business Associate" within the context of the law. As a result, the Purchaser requires Provider to sign and return with this contract the Business Associate Agreement, which will be included and made part of this agreement.

## **Article 12 Indemnity and Insurance**

### **Section 12.1 Indemnity**

The Provider agrees that it will at all times during the existence of this Contract indemnify the Purchaser against any and all loss, damages, and costs or expenses which the Purchaser may sustain, incur or be required to pay by reason of any eligible client's suffering, personal injury, death or property loss resulting from participating in or receiving the care and services to be furnished by the Provider under this Agreement. However, the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by the Purchaser.

### **Section 12.2 Insurance**

Provider agrees that, in order to protect itself as well as Purchaser under the indemnity provision set forth in the above paragraph, Provider will at all times during the terms of this Contract keep in force a liability insurance policy issued by a company authorized to do business in the State of Wisconsin and licensed by the State of Wisconsin and licensed by the Office of the Commissioner of Insurance. Upon signing this Contract, Provider will furnish Purchaser with a "Certificate of Insurance" verifying the existence of such insurance. In the event of any action, suit, or proceedings against Purchaser upon any matter indemnified against, Purchaser shall notify the purchaser by certified mail within five working days.

## **Article 13 Independent Contractor**

Nothing in this contract shall create a partnership or joint venture between the Purchaser and the Provider. The Provider is at all times acting as an independent contractor and is in no sense an employee, agent or volunteer of the Purchaser.

## **Article 14 Licenses, Certification, and Staffing**

### **Section 14.1 License and Certification**

The Provider shall meet state and federal services standards and applicable state licensure and certification requirements as expressed by state and federal rules and regulations applicable to the services covered by this contract. The Provider shall attach copies of its license or certification document and the most recent licensing or certification report concerning the provider to this contract when returning the signed contract to the Purchaser. During the contract period, the Provider shall also send the Purchaser copies of any licensing inspection reports within 5 days of receipt of such reports.

### **Section 14.2 Staffing**

The Provider shall ensure that staff providing services are properly supervised and trained and that they meet all of the applicable licensing and certification requirements.

## **Article 15 Liquidated Damages**

### **Section 15.1 Noncompliance Resulting in Liquidated Damages**

The parties agree that any delays or failures by the Provider to perform under this contract, as specified below, may result in damage to the Purchaser. The parties further agree that the amount of damage would be difficult to calculate and thus will be the amount set forth below as liquidated damages. The Provider shall not be charged with liquidated damages when the delay or failure arises out of causes beyond the control and without the fault or negligence of the Provider.

If the Purchaser determines that the Provider has failed to provide adequate care resulting in the Purchaser placing clients in other facilities, the Purchaser may assess liquidated damages. The Purchaser will provide the Provider with a written notice of assessment and the Provider shall pay \$200.00 per day for each day that the failure occurred, but not to exceed 30 days.

#### **Section 15.2 Payment of Liquidated Damages**

Amounts due the Purchaser as liquidated damages may be deducted by the Purchaser from any money payable to Provider under this contract, or the Purchaser may bill the Provider as a separate item and the Provider shall immediately make payments on such bills.

If the delay or failure causes the Purchaser to terminate this contract in whole or in part, the Provider remains liable for liquidated damages until the time the Purchaser may reasonably obtain performance of similar services.

### **Article 16 Matching, Level of Effort and Earmarking**

No Matching, level of effort or earmarking requirements.

### **Article 17 Payment and Allowable Cost**

#### **Section 17.1 Amount paid under contract**

The maximum payment under this contract is **\$31,227.94**. Actual total payment will be based upon the amount of service authorized by the Purchaser and the amount of service performed by Provider. It is understood and agreed by all parties that the Purchaser assumes no obligation to purchase from the Provider any minimum amount of services as defined in the terms of this contract.

#### **Section 17.2 Basis for Payments**

Payments for services covered by this contract shall be made on a unit-times-unit-price basis with limited profit or reserve and in accordance with the "order of payment" requirements for the funding program, less client fees and other collection made by the Provider for services covered by this contract. Final settlement of the contract will be based on audit.

**Section 17.2.1 Units and prices** – The units and prices for each service purchased from the Provider are included in the table below:

<b>SPC or HIPAA code for service</b>	<b><u>Service</u></b>	<b># of Clients (a)</b>	<b>Client Services Unit** (b)</b>	<b>Rate/Unit* (excluding room &amp; board) (c)</b>	<b>Room &amp; board/ unit (d)</b>	<b>Total per service (e) axbx(c+d)</b>
202	Adult Family Home for xx	1	12 mths	\$249.75/mth	\$590.86/ mth	\$10,087.32
	Personal Care for xx	1	2062.5 hrs	\$10.25/hr		21,140.62
<b>Contract total (sum of column e)</b>						<b>\$ 31,227.94</b>

The Purchaser shall determine the type of services provided and the number of units of services provided for each client. The Purchaser will not reimburse the Provider for any unit of service not previously authorized by the Purchaser.

(See Article 22 "Services to be Provided" for description of the services purchased under this contract.)

(See Article 21 "Revision or termination of the contract" for revision of units or prices.)

**Section 17.2.2 Profit or reserves**– The purchaser allows the Provider to have profit (for-profit providers only) or reserve (non-profit provides only). The profit and reserve are limited by expenditures on allowable cost that the Provider incurs in performing the services purchased under this contract. Allowable costs, profit, and reserve are defined in the Allowable Cost Policy Manual (online at <http://www.dhfs.state.wi.su/grants/Administration/ACPM.HTM>).

**Section 17.2.3 Client fees and third party collections** – The Purchaser is responsible for all billing and collection for amounts due from clients and third parties. The Provider shall not collect any funds from clients or from third parties.

**Section 17.2.4 Audit** – The amount earned under this contract shall be confirmed through an annual audit (see Section 1 "Audit"). For profit providers shall include a schedule in their audit reports showing the total allowable costs and the calculation of the allowable profit by contract or by service category. Non-profit providers shall include a Reserve Supplemental Schedule (Section 7.1.6 of the *Provider Agency Audit Guide*) in their audit reports, and this schedule shall also be by contract or service category.

### **Section 17.3 Advance and surety bond**

**Section 17.3.1 Payment of the advance** – If the Provider requests an advance payment will be made as soon as possible after the contract is signed by both parties, the Purchaser shall make an advance to the Provider in the amount of 1/12<sup>th</sup> of the maximum dollar amount to be paid under this contract.

**Section 17.3.2 Surety bond** – The Provider shall supply a Surety Bond for advance payments that exceeds \$10,000.00 per s.46.036(3)(f), Wis. Stats. The Surety Bond must be for an amount equal to the amount of the advance payment and must accompany the signed contract that is returned to the purchaser. The insurer issuing the surety bond must be licensed to conduct surety business in Wisconsin. The insurer shall use a bond form acceptable to the Purchaser.

**Section 17.3.3 Recoupment of the advance** - The advance will be recouped during the last three months of the contract period, or when payments made under the contract equal or exceed seventy-five percent of the contract amount. A final cash adjustment will be done after reconciliation of the Contract amounts to actual final reported expenses.

### **Section 17.4 Reporting for payment**

Each month, the Provider shall report the units of service provided during the month on the forms provided by the Purchaser. All information reported to the Purchaser shall be supported by the Provider's records. The report is due to the Purchaser on the 14<sup>th</sup> day following the end of the report month. If the Provider's report is complete and timely, the expected payment date is the 20<sup>th</sup> day following the end of the report month. (See Article 18 "Records" and Article 19 "Reporting.")

### **Section 17.5 Payment in excess of earned amount**

Provider shall return to Purchaser funds paid in excess of the amount earned under this contract within 90 days of the end of the contract period. If the Provider fails to return funds paid in excess of the amount earned, the Purchaser may recover the excess payment from subsequent payments made to the Provider or through other collection means. The allowable cost of standard programs shall be determined pursuant to the Department of Health and Social Services' *Allowable Costs Policy Manual*.



## **Article 18 Records**

### **Section 18.1 Maintenance of records**

Provider shall maintain such records and financial statements as required by state and Federal laws, rules, and regulations.

### **Section 18.2 Access to records**

The Provider shall permit appropriate representatives for the Purchaser to have timely access to the Provider's records and financial statements as necessary to review the Provider's compliance with contract requirements for the use of the funding.

## **Article 19 Reporting**

Provider shall comply with the reporting requirements of Purchaser. All reports shall be in writing and, when applicable, in the format specified by the Purchaser. All reports shall be supported by the Providers records (See XI "Records").

## **Article 20 Resolution of Disputes**

The Provider may appeal decisions of the Purchaser in accordance with the terms and conditions of the contract and Chapter 68, Wis. Stats.

## **Article 21 Revision or Termination of this Contract**

### **Section 21.1 Cause for revision or termination of this contract**

Failure to comply with any part of this contract may be considered cause for revision, suspension, or termination.

### **Section 21.2 Revision of this contract**

Either party may initiate revision of this contract. Revision of this contract must be agreed to by both parties by an addendum signed by their authorized representative.

### **Section 21.3 Termination of this contract**

Either party may terminate this contract by a 30-day written notice to the other party.

Upon termination, the Purchaser's liability shall be limited to the costs incurred by the Provider up to the date of termination. If the Purchaser terminates the contract for reasons other than non-performance by the Provider, the Purchaser may compensate the Provider for an amount determined by mutual agreement of both parties.

## **Article 22 Services to be Provided**

### **Section 22.1 Description of services**

For each eligible client referred by the Purchaser, the Provider agrees to provide the following services:

Adult Family Home  
Room and Board  
Personal Care

### **Section 22.2 Developing Individual Service Plans/ISP**

The Provider shall develop an Individual Service Plan for each client within 30 days following the date the Purchaser referred the client to the Provider. The Provider shall: (a) ensure that the Individual Service Plan complies with applicable standards; and (b) promptly submit the plan upon completion to the Purchaser for review and approval. The Provider agrees to work with the Purchaser as necessary when the Provider is developing an Individual Service Plan.

The Provider agrees to work with the Purchaser when the Purchaser is developing the Purchaser's Individual Service Plan.

### **Section 22.3 Implementing Individual Service Plans**

The Provider shall provide the service specified in this Article and in the Provider's Individual Service Plan for each client, as authorized by the Purchaser. In providing services, the Provider shall:

- a. Transfer a Client from one category of care or service to another only with the approval of the Purchaser (s. 46.036(4)(d) Wis. Stats.).
- b. Coordinate with other service providers as necessary to achieve the client's goals as identified in the Purchaser's and Providers Individual Service Plans;
- c. Obtain service from another party only with prior written approval from the Purchaser. If the Provider obtains services for any part of this Agreement from another party, the Provider is responsible for fulfillment of the terms of the contract.

### **Section 22.4 Inability to provide quality or quantity of services**

The Provider shall notify the Purchaser in writing and delivered in person or by registered mail whenever it is unable to provide the required quality or quantity of services. Upon such notification, the Purchaser and Provider shall determine whether such inability will require a revision or termination of this contract. (See Article 21 "Revision or termination of the contract.")

### **Section 22.5 Documentation of quality and quantity of services**

The Provider shall retain all documentation necessary to adequately demonstrate the time, duration, location, scope, quality, and effectiveness of services rendered under the contract. The Purchaser reserves the right to not pay for units of services reported by the Provider that are not supported by documentation required under this contract.

### **Section 22.6 Standards for performance in delivery of services**

The Purchaser will monitor the Provider's performance and will use the results of this monitoring to evaluate the Provider's ability to provide adequate services to clients. If the Provider fails to meet contract goals and expected results, the Purchaser may reduce or terminate the contract.

### **Section 22.7 Assessing performance in delivery of services**

The Purchaser retains sole authority to determine whether the Provider's performance under the contract is adequate. The Provider agrees to the following:

- a. The Provider shall allow the Purchaser's care manager and contracting staff to visit the Provider's facility or work site at any time for the purposes of ensuring that services are being provided as specified in the Plan of Care and the contract.
- b. Upon request by the Purchaser or its designee, the Provider shall make available to the Purchaser all documentation necessary to adequately assess Provider performance.

- c. The Provider will cooperate with the Purchaser in its efforts to implement the Purchaser's quality improvement and quality assurance program.
- d. The Providers shall develop and implement a process for assessing client satisfaction with services provided. The Provider shall report in a timely manner the results of its client satisfaction assessment effort to the Purchaser. The Purchaser reserves the right to review and approve the Provider's client satisfaction assessment process, and to require the Provider to submit a corrective action plan to address concerns identified in the review.
- e. The Provider shall cooperate with the Purchaser in implementing the Purchaser's program for assessing client satisfaction with services. The Purchaser reserve the right to require the Provider to submit a corrective action plan to address concerns identified in the review.

### **Article 23 Special Provisions for High Risk Contract**

The Purchaser has determined that this is a high-risk contract. The Provider recently began operations. To mitigate the risks for a new Provider, the Provider shall:

- a. Hire a bookkeeper to keep financial records and to start at the beginning of the contract period and attach the bookkeeper's name, address, and telephone number to this contract.
- b. Hire an auditor to perform the annual audit and attach a copy of the signed engagement letter to this contract.

The Purchaser may unilaterally implement other charges depending on experience with the contract:

- a. Modifying the payment method to a cost reimbursement basis:
- b. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
- c. Requiring additional, more detailed financial reports;
- d. Requiring the Provider to obtain technical or management assistance;
- e. Establishing additional prior approvals; or management assistance;
- f. Establishing additional prior approvals;
- g. Other conditions that the Purchaser considers appropriate considering the circumstances.

## Signatures

- A. This contract is agreed upon and approved by the authorized representative's of **Marinette County Health and Human Services** and <<<Provider name>>> as indicated below.
- B. This contract becomes null and void if the time between the purchaser's authorized representative signature and the provider's authorized representative signature on this contract exceeds sixty days.

For Purchaser:

**L. William Topel**\_\_\_\_\_ **Date**\_\_\_\_\_

**Director**

**Katherine K. Brandt**\_\_\_\_\_

**County Clerk** **Date**\_\_\_\_\_

For Provider:

**<<<Provider name>>>**\_\_\_\_\_ **Date**\_\_\_\_\_

**Provider**

**DEPARTMENT OF HEALTH AND FAMILY SERVICES**Division of Supportive Living  
DSL-2558 (Rev. 11/2002)**STATE OF WISCONSIN**Completion of this form meets the requirements of the  
State/County  
contract specified under the Wisconsin Statutes.  
S. 46.03 (12), 46.275, 46.278 (2)**COUNTY CRITICAL INCIDENT REPORT**

**Instructions: This form must be completed in its entirety. Additional information may be attached to supplement information provided on the report form.** FAX this form to the Bureau of Developmental Disabilities Services (BDDS) Critical Incident Contact in Central Office assigned to this individual within 30 days of the incident. Additional material that is not available due to reasons beyond the county's control may be sent under cover letter at a later date. Personally identifiable information on this form is collected for the purpose of improving quality of services and will only be used for that purpose.

1. Date Form Completed mm/dd/yyyy)	2. Name - Primary Community Integration Specialist
3. Report Type (Check all appropriate) <input type="checkbox"/> Original <input type="checkbox"/> Update <input type="checkbox"/> Correction <input type="checkbox"/> Review Closed	4. Date Critical Incident Review Closed mm/dd/yyyy)

**PERSON COMPLETING FORM INFORMATION**

5. Name - Last	Name - First
Title	
6. Name - Agency	7. Telephone Number

**CASE MANAGER INFORMATION (If different from above)**

8. Name - Last	Name - First
9. Telephone Number	10. Case Manager ID Number

**PARTICIPANT INFORMATION**

11. Name - Last	Name - First	MI
12. Birthdate (mm/dd/yyyy)	13. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	14. Medicaid Number
15. Telephone Number - Residential	16. Program <input type="checkbox"/> BIW <input type="checkbox"/> CIP 1A <input type="checkbox"/> CIP 1B <input type="checkbox"/> CSLA <input type="checkbox"/> Other	

**EVENT**

17. Date of Event (mm/dd/yyyy)	18. Location Event Occurred (Street, City, State, Zip Code)
19. Type of Setting <u>Residence</u> <input type="checkbox"/> Participant's private home or apartment <input type="checkbox"/> Adult family home (1-2 beds) <input type="checkbox"/> Adult family home (3-4 beds) <input type="checkbox"/> CBRF <input type="checkbox"/> Children's foster home <u>Other</u> <input type="checkbox"/> Work / day program <input type="checkbox"/> Community work site <input type="checkbox"/> Community setting; e.g., park, store, etc. <input type="checkbox"/> Transport <input type="checkbox"/> Another person's residence <input type="checkbox"/> Other - Specify: _____	
20. Allegation of caregiver misconduct? <input type="checkbox"/> Yes <input type="checkbox"/> No	
21. Name - Provider Agency	
22. Address - Provider Agency (Street, City, State, Zip Code)	

**INITIAL REPORT**

23. Provide a brief description of initial event or allegation. Send additional documentation only if necessary.

**DEPARTMENT OF HEALTH AND FAMILY SERVICES**

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24. How did the reporter learn of this event?

If hospitalization or medical treatment was needed, complete the following.

25. Date of Treatment (mm/dd/yyyy) 26. Name - Institution Where Treatment Was Obtained

27. Reason for admission / treatment

28. Outcome of treatment

If the participant died, complete the following:

29. Date of Death (mm/dd/yyyy) 30. Official cause of death as reported on the death certificate

31. Check applicable event type(s) / allegations below. Check "Alleged Only" if there is doubt that the event occurred.

<u>Event Type / Allegation</u>	<u>Alleged Only</u>	<u>Event Type / Allegation</u>	<u>Alleged Only</u>
<u>Abuse</u>		<u>Neglect</u>	
<input type="checkbox"/> Mental / emotional	<input type="checkbox"/>	<input type="checkbox"/> Environmental	<input type="checkbox"/>
<input type="checkbox"/> Physical	<input type="checkbox"/>	<input type="checkbox"/> Fail to follow plan / poor care	<input type="checkbox"/>
<input type="checkbox"/> Sexual	<input type="checkbox"/>	<input type="checkbox"/> Medical / failure to seek	<input type="checkbox"/>
<input type="checkbox"/> Verbal	<input type="checkbox"/>	<input type="checkbox"/> Nutrition	<input type="checkbox"/>
		<input type="checkbox"/> Self-neglect	<input type="checkbox"/>
		<input type="checkbox"/> Unanticipated absence of provider	<input type="checkbox"/>
<u>Death</u>		<u>Residence Damage</u>	
<input type="checkbox"/> Accidental	<input type="checkbox"/>	<input type="checkbox"/> Fire	<input type="checkbox"/>
<input type="checkbox"/> Anticipated	<input type="checkbox"/>	<input type="checkbox"/> Other	<input type="checkbox"/>
<input type="checkbox"/> Related to psychotropic medication*	<input type="checkbox"/>	<input type="checkbox"/> Weather	<input type="checkbox"/>
<input type="checkbox"/> Related to restraint*	<input type="checkbox"/>		
<input type="checkbox"/> Related to suicide*	<input type="checkbox"/>	<u>Other</u>	
<input type="checkbox"/> Unanticipated medical	<input type="checkbox"/>	<input type="checkbox"/> Serious illness / injury / accident	<input type="checkbox"/>
<b>Note:</b> *Deaths related to above factors in certain facilities must be reported to the Department / DSL Death Review Committee within 24 hours.		<input type="checkbox"/> Significant behavior that placed others at risk	<input type="checkbox"/>
		<input type="checkbox"/> Suicide attempt	<input type="checkbox"/>
		<input type="checkbox"/> Other rights violations	<input type="checkbox"/>
		<input type="checkbox"/> Unanticipated absence of participant	<input type="checkbox"/>
<u>Hospitalization</u>			
<input type="checkbox"/> Emergency medical	<input type="checkbox"/>		
<input type="checkbox"/> Mental health / behavior	<input type="checkbox"/>		
<u>Law Authority Contact</u>			
<input type="checkbox"/> Commission of crime	<input type="checkbox"/>		
<input type="checkbox"/> Victim of crime	<input type="checkbox"/>		
<u>Misappropriation</u>			
<input type="checkbox"/> Person's funds	<input type="checkbox"/>		
<input type="checkbox"/> Person's property	<input type="checkbox"/>		

**DEPARTMENT OF HEALTH AND FAMILY SERVICES**

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Contract 04-077  
<<<Provider Name>>>  
**STATE OF WISCONSIN**  
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32. Contact checklist. Check all persons / agencies contact by county, provider and person / guardian. Fill in the first date contacted in regard to this event. \*Contacts may be required depending upon circumstances.

<input type="checkbox"/>	<b>A. Adult Protective Services</b>	Name - Agency	Date - First Contact (mm/dd/yyyy)
		Name - Contact Person	Telephone Number - Agency
<input type="checkbox"/>	<b>B. BDDS / Community Integration Specialist (CIS) (Required)</b>	Name	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>C. Caregivers Investigation*</b> (608) 261-7651		Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>D. Child Abuse</b>	Name - Agency	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>E. County Case Manager</b>	Name -Contact Person	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>F. Elder Abuse</b>	Name - Agency	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>G. Guardian (Required)</b>	Name	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>H. Law Enforcement Agency</b>	Name - Agency	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>I. Licensing *</b>		
	<input type="checkbox"/> <b>Adult</b> Name - Agency		Date - First Contact (mm/dd/yyyy)
	<input type="checkbox"/> <b>Children's</b> Name - Agency		Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>J. Other Providers</b> If additional space is needed, attach separate sheet.		
	Name - Agency		Date - First Contact (mm/dd/yyyy)
	Name - Agency		Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>K. Physician</b>		Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>L. Area Administration</b>	Name	Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>M. Residential Support Provider</b>		Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>N. Residential Support Provider</b>		Date - First Contact (mm/dd/yyyy)
<input type="checkbox"/>	<b>O. Wisconsin Coalition for Advocacy</b>		Date - First Contact (mm/dd/yyyy)
	Telephone Number. - Madison (608) 267-0214		
	Telephone Number - Milwaukee (414) 342-8700		

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33. Response Summary. Check all that apply; send updates as needed.

☐ **Nothing changed**

**Case Management**

☐ Additional services added to plan

☐ Higher level monitoring

☐ Terminated waiver participation

☐ Changed - New case manager is: \_\_\_\_\_

**Day / Work Provider**

☐ Same agency - staff changed

☐ Same agency - staff training provided

☐ Same agency - staff added

☐ Changed - New provider is: \_\_\_\_\_

**Guardian**

☐ Changed - New guardian is: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**Residential Provider**

☐ Same agency - staff changed

☐ Same agency - staff training provided

☐ Same agency - staff added

☐ Changed - New provider is: \_\_\_\_\_

☐ **HFS 94 grievance filed**

☐ **Other** - Specify: \_\_\_\_\_

---

34. Narrative CI outcome.

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35. In the internal reviews of this event, were there any recommendations offered to improve the quality of care for other waiver participants or changes in policy / procedure? If so, summarize what the recommendations / changes are and the plans for implementing them.

## DEPARTMENT OF HEALTH AND FAMILY SERVICES

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**FOR BDDS USE ONLY**

36. Name - Participant

37. Medicaid Number

38. Name - Staff Member Who Completed This Form

39. Event Date

40. Review Date

41. Check applicable event type(s) / allegations below. Check "Alleged Only" if there is doubt that the event occurred.

<u>Event Type / Allegation</u>	<u>Alleged Only</u>	<u>Event Type / Allegation</u>	<u>Alleged Only</u>
<u>Abuse</u>		<u>Neglect</u>	
<input type="checkbox"/> Mental / emotional	<input type="checkbox"/>	<input type="checkbox"/> Environmental	<input type="checkbox"/>
<input type="checkbox"/> Physical	<input type="checkbox"/>	<input type="checkbox"/> Fail to follow plan / poor care	<input type="checkbox"/>
<input type="checkbox"/> Sexual	<input type="checkbox"/>	<input type="checkbox"/> Medical / failure to seek	<input type="checkbox"/>
<input type="checkbox"/> Verbal	<input type="checkbox"/>	<input type="checkbox"/> Nutrition	<input type="checkbox"/>
		<input type="checkbox"/> Self-neglect	<input type="checkbox"/>
		<input type="checkbox"/> Unanticipated absence of provider	<input type="checkbox"/>
<u>Death</u>		<u>Residence Damage</u>	
<input type="checkbox"/> Accidental	<input type="checkbox"/>	<input type="checkbox"/> Fire	<input type="checkbox"/>
<input type="checkbox"/> Anticipated	<input type="checkbox"/>	<input type="checkbox"/> Other	<input type="checkbox"/>
<input type="checkbox"/> Related to psychotropic medication*	<input type="checkbox"/>	<input type="checkbox"/> Weather	<input type="checkbox"/>
<input type="checkbox"/> Related to restraint*	<input type="checkbox"/>		
<input type="checkbox"/> Related to suicide*	<input type="checkbox"/>	<u>Other</u>	
<input type="checkbox"/> Unanticipated medical	<input type="checkbox"/>	<input type="checkbox"/> Serious illness / injury / accident	<input type="checkbox"/>
<b>Note:</b> *Deaths related to above factors must be reported to the Department / DSL Death Review Committee within 24 hours.		<input type="checkbox"/> Significant behavior that placed others at risk	<input type="checkbox"/>
<u>Hospitalization</u>		<input type="checkbox"/> Suicide attempt	<input type="checkbox"/>
<input type="checkbox"/> Emergency medical	<input type="checkbox"/>	<input type="checkbox"/> Other rights violations	<input type="checkbox"/>
<input type="checkbox"/> Mental health / behavior	<input type="checkbox"/>	<input type="checkbox"/> Unanticipated absence of participant	<input type="checkbox"/>
<u>Law Authority Contact</u>			
<input type="checkbox"/> Commission of crime	<input type="checkbox"/>		
<input type="checkbox"/> Victim of crime	<input type="checkbox"/>		
<u>Misappropriation</u>			
<input type="checkbox"/> Person's funds	<input type="checkbox"/>		
<input type="checkbox"/> Person's property	<input type="checkbox"/>		

42. BDDS Response Summary. Check all that apply and the date completed.

	<u>Date Completed</u>		<u>Date Completed</u>
<input type="checkbox"/> None		<input type="checkbox"/> Caregiver referral	
<input type="checkbox"/> Informal follow-up		<input type="checkbox"/> Formal POC issued	
<input type="checkbox"/> Behavior consult		<input type="checkbox"/> Formal POC issued	
<input type="checkbox"/> Provide training		<input type="checkbox"/> ISP revision	
<input type="checkbox"/> Additional field visit		<input type="checkbox"/> CI review closed	
<input type="checkbox"/> Licensing referral			

43. Provide any additional information about the event you need to add to the record.

44. Review Planning

	<u>Date Due</u>
<input type="checkbox"/> Plan of correction	
<input type="checkbox"/> Targeted review	

45. ☐ Yes ☐ No Are there attachments in the paper file?

## Instructions for Completing Critical Incident Reports

### I. Overview

The Department of Health and Family Services is required by the Centers of Medicare and Medicaid (CMS) to insure the health, safety and welfare of Home and Community based waiver participants. The Department shares this responsibility with County agencies in the State-County Contract by requiring County compliance with the Medicaid Waivers Manual. Chapter IX of this Manual requires each County agency administering any of the waivers to have an adequate system to ensure waiver participants are adequately protected from physical, verbal and sexual abuse. Maltreatment, neglect, financial exploitation and violations of their rights under law. Chapter 9 also requires counties to have an effective response system when Incidents of this kind arise. The Manual also specifies Critical Incident Reporting requirements for counties. The Manual requires County agency staff to report Critical Incidents as defined here. Please refer to the Medicaid Waiver Manual, Chapter IX: Assuring Health, Safety and Welfare, for detailed information.

### II. Timelines

The County must report all Critical Incidents to the assigned CIS within 30 days of the Incident. **If a CI has the potential of becoming a high profile situation, the County is asked to immediately contact the assigned CIS or the Bureau of Developmental Disabilities at (608) 266-0805 to alert them and seek any assistance that may be needed.**

Completion of the BDDS Critical Incident Report does not meet any other requirements for reporting events, deaths or misconduct to other state or County agencies. Please visit the Department web site for additional information regarding reporting requirements at [www.dhfs.state.wi.us](http://www.dhfs.state.wi.us).

### III. Procedures:

The following is a recommended sequence of procedures county staff and the service providers involved may wish to follow in responding to reportable critical incidents.

1. Immediately upon learning of an allegation of a critical incident, the service provider should determine if the allegation is credible. If there is reasonable cause to believe that the report may be accurate, the service provider should proceed with the next steps listed here.
2. The service provider's first responsibility is to take necessary actions to protect waiver participants from the potential of harm. In doing this, they should preserve possible evidence for an investigation if one is to be conducted.
3. The provider must notify the case manager/service/support coordinator or designated county staff of the allegation and results of any action taken. Agencies are expected to notify local law enforcement authorities in any situation where there is a potential violation of criminal law.
4. The county case manager/ Service/support coordinator should notify the guardian is about the situation/ incident.

5. **If an incident has the potential of becoming a high profile situation, county agency staff are asked to immediately contact their assigned CIS or the Bureau of Developmental Disabilities at (608) 266-0805 to alert them and seek any assistance that may be needed.** Knowledge of such situations by department staff often helps alleviate concerns that may come from legislators or the media about the adequacy of responses that might arise if the department is not so informed.
6. The county staff or their agents/contractors who are involved should promptly determine if the critical incident occurred and if the person's with on-site responsibility have taken the necessary steps to ensure participant health, safety and welfare as required by the waiver. County staff should also determine if the service provider's procedures and responses were adequate. The county must take action to ensure that any remedial action needed is taken.
7. If county staff determine that the situation or event occurred, they should next determine if a longer term, a substantive response or change is warranted. County staff should take all actions necessary to make the changes needed including substitution of provider, termination of contracts, etc. These may occur after the initial CIR but shall be reported in updates to the initial CIR.
8. The CIR is intended to summarize the details of the incident, the county's review and participant outcomes. Each such incident should also be viewed as a test of the adequacy of the county's response system. County staff shall send the completed Critical incident form (DSL 2558) to their assigned CIS. Reports shall be within 30 days of the incident unless other arrangements have been made with the CIS. For active situations, Counties are encouraged to submit the report earlier.
9. If a county is unable to gain access to certain findings or records within the 30 day time frame due to concurrent investigations or other extenuating circumstances beyond their control, the county should send in all available information with a notation that the initial report is not complete. County staff should indicate when the rest of the report is anticipated if that is known or can be predicted.
10. County agencies are responsible for "closing" all critical incident reports. Closing here means submitting a report and any necessary updates so that all pertinent information about the event and the response are included in the report. Follow up visits or future targeted reviews are usually not expected to be part of the report unless they occur within a short time frame.
11. The DSL/BDDS staff will review all CIRs. This review is intended to determine:
  - if participant's health, safety and welfare are now adequately protected;
  - that the response to the situation and event was reasonable and appropriate;
  - that the county's procedures and system for responding to such incidents were adequate;
  - that the participant's service plan is adequate;
  - that where relevant, steps to prevent similar incidents were taken;
  - that all service providers or staff involved in the incident appear to be adequately trained or that additional training needed is to be provided pursuant to the report;

12. County staff should take special note that all other required reporting procedures such as Child abuse reporting and the timelines of other required reports remain in force and are not replaced or superseded by this process.

### III. Definition of Critical Incidents and Key Terms

1. **Critical Incidents** are events or situations that pose an immediate and/or serious risk to the physical or mental health, safety, or well being of a waiver participant. A Critical Incident may also involve the misappropriation of a waiver participant's property or a violation of the person's rights. Waiver participants covered by this include people with a developmental disability or acquired brain injury who participate in one of the Medicaid Waivers administered by the Bureau of Developmental Disabilities Services (BDDS). Critical Incidents that are alleged to have occurred as well as the results of internal investigations are to be reported. If the reported Critical Incident is determined to be unfounded, the report should still be submitted.
2. **Abuse** means any of the following:
  - a. An act, omission or course of conduct by another that is inflicted intentionally or recklessly and that does at least one of the following:
    - (1) Results in bodily harm or great bodily harm to the individual.
    - (2) Intimidates, humiliates, threatens, frightens or otherwise harasses the individual.
  - b. The forcible administration of medication with the knowledge that no lawful authority exists.

#### **Examples of abuse include:**

- mental/emotional abuse - threats of harm, name calling, blaming, ignoring, threatening to withhold personal property or denying client rights or use of tonal inflection that intimidates, humiliates, threatens, frightens or otherwise harasses the individual
  - physical abuse - hitting, slapping, pinching, or grabbing a person that causes pain or injury
  - physical abuse - use of a mechanical or chemical restraint, isolation or seclusion without prior Departmental approval
  - physical abuse - restricting the use of a mobility device or intentionally failing to provide necessary assistance for activities of daily living
  - sexual abuse - inappropriate physical contact, exposure to unwanted sexually explicit material or verbal harassment of a sexual nature
3. **Community setting** means a public location that is not under an agency's control such as a park, roadway, shopping center, YMCA or other public accommodation.
  4. **Death-accidental** means an unanticipated death that is the consequence of a specific negative and unintentional event such as a medical error, motor vehicle accident, airway obstruction by a foreign object or food or ingestion of a toxic substance. An accidental death is not abuse or neglect.
  5. **Death-anticipated** means a death that was medically predicted to occur within six months if only routine and comfort interventions was provided. Anticipated deaths do not include the death of a person with a life-long disability that has been reasonably stable.

6. **Death-related to psychotropics** means death that was contributed to by the use or withholding of a psychotropic medication, or adverse reactions to a psychotropic medication.
7. **Death-related to restraints** means the person was either in restraints, seclusion, or isolation at the time of death or the death was directly related to the proper or improper use of restraints, seclusion, or isolation.
8. **Death-related to suicide** means the participant intentionally placed himself or herself in harm with a reasonable belief that it would result in their death.
9. **Death-unanticipated** means a death that was not predicted or anticipated within 6 months, or caused by an accident. An unanticipated death may be the result of abuse, neglect, an emergency medical condition, high-risk medical procedure, or sudden decline from of a pre-existing medical condition. Deaths due to ruptured bowel, cardiac arrest, pneumonia, sepsis, seizure, or stroke are examples of unanticipated deaths. If the death was related to abuse or neglect, this must be documented in the CIR.
10. **Hospitalization-emergency** means unscheduled medical treatment needed for the sudden and unexpected onset of a medical situation that, if immediate medical attention was not received, could result in death or serious injury to the person.

**Examples of emergency hospitalization include:**

- admission for heart attack, stroke, severe shortness of breath,
- assessment following a significant trauma event
- significant loss of blood
- burns or frostbite over a large portion of the body

11. **Hospitalization-mental health/behavioral** means an emergency or pre-scheduled overnight admission for assessment or management of an unstable mental condition or high-risk behaviors that require management by a physician.

**Examples of mental health/behavioral hospitalization include:**

- emergency detention for mental health symptoms or behaviors
- deterioration of behavior that requires inpatient assessment
- admission to an inpatient psychiatric unit for urgent medication adjustment

12. **Isolation** means any process by which a person is physically or socially set apart by staff from others but does not include separation for the purpose of controlling contagious disease.

13. **Law authority contact** means a participant is the subject of an investigation by law enforcement or the victim of an event that is reported to law enforcement.

**Examples of law authority contacts that are a critical incident include:**

- motor vehicle accidents or driver violations that pose a safety risk to a participant **and** the participant is a passenger in the vehicle at the time of the accident or violation **or** is struck by a moving vehicle
- physical detention by law authorities of a participant for disruptive behaviors, possible or actual legal action or parole revocation
- investigation of possible criminal activity where a participant is the victim or alleged perpetrator of a crime such as sexual abuse or assault

**Examples of law authority contacts that are not a critical incident include:**

- parking tickets, minor “fender-benders”, moving violations that did not pose a risk of harm to a participant

14. **Mechanical support** means an apparatus that is used to properly align a person’s body or to help a person maintain his/her balance, or to promote mobility. (Use of a gait belt to provide support during mobility activities is a mechanical support.)

- 15. Medical restraint** means an apparatus or procedure that restricts the free movement of a person during a medical procedure or prior to or subsequent to such a procedure to prevent harm to the individual or aid in recovery or when used to protect an individual during the time a medical condition exists.
- 16. Neglect means** an act, omission or course of conduct that, because of the failure to provide adequate food, shelter, clothing, medical care or dental care, creates a significant danger to the physical or mental health of an individual.
- Examples of neglect include:**
- environmental – failure to maintain a building, furniture and associated spaces in a clean, well ventilated, and safe condition
  - environmental – failure to provide adequate sensory and mental stimulation appropriate the participant's needs
  - failure to follow plan/poor care - failure to provide support services to an individual according to the care plan or policies and procedures or in such a limited manner that the person's safety or health is compromised
  - medical - failure to provide medication as ordered, prompt and adequate physical care, seek appropriate medical treatment or report change in a participant's condition in a timely manner
  - nutritional - failure to provide adequate and appropriate food, water or other dietary services to meet the needs of the person
- 17. Physical restraint** means a manual hold by a support worker or use of an apparatus other than a medical restraint or mechanical support, that interferes with the free movement of a person's limbs or body which the person is unable to remove easily.
- Examples of physical restraint include:**
- a locked room
  - a device or garment that interferes with an individual's freedom of movement and that the individual is unable to remove easily.
  - restraint by a facility staff member of a resident by use of physical force
  - disabling or interfering with a participant's use of a mobility device
  - withholding assistance to a dependent person for the purpose of interfering with the person's free movement
- 18. Provider** means any person or agency that is paid by waiver, County, private or public funds for providing a service to the person.
- 19. Psychotropic medication** means an antipsychotic, antidepressant, lithium carbonate or a tranquilizer.
- 20. Response summary** means actions taken by the person/guardian, County or providers in response to the event or allegation.
- 21. Seclusion** means physical or social separation from others by provider not including separation to prevent the spread of a communicable disease or cool down periods in an unlocked room as long as the person's presence in the room is voluntary.
- 22. Service provider**, in this context, means a person who is providing paid or unpaid service or support pursuant to the person's individualized service plan. Service providers may be the person in contact with the waiver participant or someone who supervises the people in direct contact with the participant.
- 23. Suicide** means the act of taking one's own life voluntarily and intentionally.
- 24. Unanticipated absence** means a participant's whereabouts is unknown and he or she is considered missing.